

## **REMARKS**

In response to the above-identified Final Office Action, the Applicant respectfully requests reconsideration in view of the following remarks. Applicant adds new claims 206-321. Accordingly, claims 108-110, 112-116, 118-121, 123-134, 136-140, 142-145, 147-158, 160-164, 167-169, 172-183, 185-189, 192-194, 197-321 are pending in the application.

### **I. Claim Objections**

Claims 111, 135, 159 and 183 were rejected in the final office action mailed May 11, 2007 (hereinafter the “Final Action”) under 37 C.F.R. § 1.75(c). The Applicant notes that the Examiner has withdrawn the objection in the Examiner’s Answer mailed August 20, 2007 (hereinafter the “Answer”).

### **II. Claims Rejected under 35 U.S.C. § 103**

Claims 108-205 stand rejected under 35 U.S.C. § 103 as obvious over U.S. Patent 6,571,279 issued to Herz et al (hereinafter “Herz”) in view of U.S. Patent No. 6,868,525 issued to Szabo (hereinafter “Szabo”).

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references, combined, teach or suggest each of the elements of a claim. In regard to independent claims 108, 132, 156 and 181, these claims include the elements of “displaying a first content via the internet and through the simplified navigation interface, the first content is associated with the first advertisement, the first content formatted for navigation by a second unique input to be received from the input device.” The Applicant has reviewed both Herz and Szabo, but has been unable to discern any part therein that teaches these elements of claims 108, 132, 156 and 181.

Specifically, the references fail to disclose formatting each navigation option to be selectable by a single unique input generated by an input device. As argued previously, Herz and

Szabo disclose only the use of conventional input devices (e.g., an input from a mouse) and user interface interactions with conventional input devices (e.g., pointing and clicking). There is no disclosure of tying a specific button or other input from an input device to a specific navigation option, thus, there is no disclosure of each navigation option being selectable by a unique input “received from an input device.” The hyperlink of Szabo relied on by the Examiner in the Final Action and Answer, if selected by an input from an input device, is selected in response to a signal that is generated by the input device that is not unique to that hyperlink. Rather, it is an input signal that has no specific relationship with the navigation option (i.e., hyperlink) that provides a context in which it is unique.

Further, the hyperlink cannot be characterized as the input as it is not generated by an input device. Rather, a hyperlink would be understood by one skilled in the art as being a navigation option. The Examiner has not identified and the Applicant has been unable to discern any part of Herz that could be characterized as disclosing that each navigation option is selectable by a single unique input from an input device. Therefore, Herz in view of Szabo does not teach or suggest each of the elements of claims 108, 132, 156 and 181.

The Applicant’s amendments contain numerous additional elements and relationships between elements that are not disclosed by the combination of Herz and Szabo and the Applicant earnestly requests that the Examiner carefully consider the numerous additional elements and specifically the interrelationships between these elements set forth in the amended independent claims. If the rejections of the independent claims are maintained then the Applicant requests that the Examiner provide an explanation detailing how each element and relationship between elements set forth in the claims are disclosed by the cited references. The Applicants specifically draw the Examiner’s attention to the following elements:

“each cell a division of a screen and exclusive to a separate single navigation option” (the Applicants request that the Examiner clearly set forth how the cited references disclose that each cell corresponds to a single specific navigation option (i.e. a 1:1 correspondence));

“the first unique input to be received from an input device,” (the Applicant requests that the Examiner clearly set forth how the cited references disclose that a specifically identified input is received from an input device, which has specific relationships to other elements set forth in the remainder of the claim and what specific input device is being relied upon by the Examiner to teach this element);

“each unique input including the first unique input being exclusive to respective separate single navigation options,” (the Applicant requests that the Examiner clearly set forth how the cited reference discloses that a specifically identified input corresponds (i.e., a 1:1 correspondence) to a single specific navigation option);

“the first advertisement navigable by a first navigation option exclusive to a first cell,” (the Applicant requests that the Examiner clearly set forth how the cited references disclose that a specific navigation option corresponds (i.e., a 1:1 correspondence) to a specific cell and consequently how a cell, navigation option and unique input are all tied together (i.e., a 1:1:1 correspondence));

“the first content reformatted from a web page into a sister site to be displayed and navigable through the simplified navigation interface,” (the Applicant requests that the Examiner clearly set forth how the cited references disclose that the relied upon content is reformatted from a web page and how it is reformatted from the web page to be navigable specifically for the simplified navigation interface);

“the sister site including a portion or a whole of content of the web page reformatted to be navigable by unique inputs through the simplified navigation interface,” (the Applicant requests that the Examiner clearly set forth how the cited references disclose that the relied upon content is reformatted from a web page and how it is reformatted from the web page to be navigable specifically by use of unique inputs as they are described in terms of interrelationships with other elements above);

“collected user data including unique inputs received through the simplified navigation interface, each unique input to be received from the input device and being exclusive to respective separate single navigation options,” (the Applicant requests that the Examiner clearly set forth how the cited references disclose that user data including unique inputs are collected through the simplified navigation interface);

The Applicant continues to believe that Herz and Szabo are not properly combined for the reasons set forth in the Appellant’s Brief and have not conceded any argument for the patentability of the claims set forth in the Appellant’s Brief, thus, for the additional reasons set forth in the Appellant’s brief these claims are not taught or suggested by Herz and Szabo. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 108, 132, 156 and 181 are requested.

In regard to claims that depend from claims 108, 132, 156 and 181, these claims incorporate the limitations of the independent claims. Thus, at least for the reasons mentioned above, the Applicant believes that these claims are not taught or suggested by Herz in view of Szabo. The Applicant continues to believe that the dependent claims are also patentable over Herz in view of Szabo for the reasons set forth in the Appellant’s Brief. The arguments set forth therein are maintained in so far as they apply to the amended claim set. Accordingly,

reconsideration and withdrawal of the obviousness rejection of these dependent claims are requested.

### Traversal of Official Notice

In regard to the Examiners Official Notice that “both displaying reports of targeting data and voice recognition inputs ... were well known and therefore obvious at the time of the invention,” (page 4 of the Answer) the Applicant traverses this taking of Official Notice. In addition, the Applicant traverses any other assertion of common knowledge or Official Notice that the Examiner believes was presented in the Answer or that is still relevant from previous action. The Applicants did not note any other such assertions in reviewing the Answer.

To properly establish a *prima facie* case of obviousness based on facts asserted as common knowledge or by Official Notice, the Examiner must first establish that the facts that the Examiner intends to assert as common knowledge or take Official Notice of are suitable for such assertion. MPEP § 2144.03 clearly sets forth that such facts must be “capable of instant and unquestionable demonstration as being well-known,” as established by *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). The Applicants note that the Examiner takes the limitations of the relevant claims out of context when taking Official Notice. The claims do not recite displaying a report generically. Rather, the relevant claims recited “displaying a report of aggregated user data collected from the plurality of users through the simplified navigation interface.” The display of reports through a simplified navigation interface is not a fact that is suitable for Official Notice because such is not well known to one of ordinary skill in the art, which the Examiner has also failed to identify. Similarly, the voice recognition system is not claimed in a vacuum, rather the amended limitation recites “receiving navigation input selections

for the simplified navigation interface from a voice recognition system.” In regard to the Examiner’s comment that the use of such a system would be obvious for a blind user, the Applicant points out that the navigation systems of Szabo, Herz and the present application are all primarily visible and no mention of use by a blind user has been discerned. The Examiner has not made clear how either reference could be modified to be usable by a blind user as merely making navigation selections from an interface that cannot be seen by the blind user is insufficient. The Applicant reminds the Examiner that the burden of establishing a *prima facie* case of obviousness is on the Patent Office not the Applicant.

Further, the Examiner has failed to establish these allegedly well known facts as part of the record as required by MPEP § 2144.03 and *In re Zurko*, 59 USPQ2d 1693 (Fed. Cir. 2001). MPEP § 2144.03 clearly sets forth that the Examiner must provide “specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.” The Examiner has not provided such support. Further, as clarified in *In re Zurko*, “[w]ith respect to core factual findings in a determination of patentability, however, the Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.” See *In re Zurko* at 1697. Thus, the assertion of Official Notice has not been properly established by the Examiner and cannot be relied upon as a basis for a *prima facie* case of obviousness.

Finally, it is not possible for the Applicants to set forth reasons “why the noticed fact is not considered to be common knowledge or well-known in the art,” because the Examiner has not supplied the requisite technical and scientific reasoning as part of the record for the Applicants to rebut. Rather, the Examiner has only made conclusory statements of what he

believes to be well known, which is contradictory to the requirements of *In re Zurko*.

Accordingly, the Applicant invites the Examiner to correct his Official Notice or withdrawal the related rejections based on it.

### III. New Claims

Claims 206-253 and claims 318-321 depend from independent claims 108, 132, 156 and 181, respectively, and incorporate the limitations thereof. Thus, at least for the reasons mentioned above, the Applicant believes that these claims are not taught or suggested by Herz in view of Szabo. Accordingly, the Applicant believes these claims are in condition for allowance.

Claims 254-317 include combinations of the elements of 108, 132, 156 and 181 in various permutations and with varying scope. The arguments presented above in regard to claims 108, 132, 156 and 181 are also applicable to new claims 254-318. Accordingly, the Applicant also believes that these claims are in condition for allowance.

The Applicant earnestly requests that the Examiner study each of these new claims carefully and provide a detailed explanation if a rejection is issued to make the record complete for Appeal.

## CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 108-110, 112-116, 118-121, 123-134, 136-140, 142-145, 147-158, 160-164, 167-169, 172-183, 185-189, 192-194, 197-321 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Prior to the issuance of an Office Action in response to the present Amendment the Applicant requests that a telephone conference be held. The Applicant believes that such a teleconference would be useful in moving the application forward to allowance. The Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

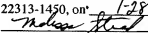
Dated: 1/28, 2008

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Melissa Stead 1-28, 2008